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OFFICE OF PETITIONS

In re Application of :
Fillebrown et al. :
Application No. 09/773,885 :
Filed: February 1, 2001 : ON PETITION
Title of Invention: :
PERSONAL WIRELESS NETWORK :

This is a decision in response to the Petition Under 37 C.F.R. § 1.47 in Support of Declaration of Prior Invention Under 37 C.F.R. § 1.131, filed October 24, 2005, requesting the Declaration of Prior Invention Under 37 C.F.R. § 1.131 be made by the signing inventors on behalf of themselves and the nonsigning inventor. The petition is properly treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 to the extent that it requires all of the named inventors execute the declaration filed thereunder¹.

This Petition is hereby dismissed.

Petitioner's assert that the claimed invention, the subject matter of which is described and claimed in the above identified application, was conceived prior to the effective date of the reference, and was diligently reduced to practice by all of the application's named inventors. Petitioner's further assert that, after diligent effort, inventor Lisa Fillebrown, is unavailable.

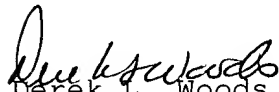
Petition fee

¹ Rule 47 only applies where, in the first instance, the signature of an originally named, or to be added, inventor cannot be obtained. As all of the inventors executed the original declaration, filed February 1, 2001, and thus made the application, 37 CFR 1.47 no longer applies to this case. See, 37 CFR 1.47; MPEP 201.03. Rather, the remedy lies under 37 CFR 1.183 when a required affidavit or declaration of a prior invention to overcome a cited patent or publication, under 37 CFR 1.131, is not executed in whole or in part by a previously signing inventor. See, MPEP 715.04.

Applicant is advised that the fee for a petition under 37 CFR 1.183, to suspend the rules, has increased to \$400 effective December 8, 2004².

Here, Applicant has submitted \$130 only. Before the petition may be considered on its merits, Applicant must submit the remaining balance.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods

Attorney

Office of Petitions

²Applicant is also advised that the fee for a petition under 37 CFR 1.147 has also increased to \$200. Applicant is advised to check our web site at www.uspto.gov for the most current fee schedule.